



# STATE OF UTAH

GARY R. HERBERT  
GOVERNOR

OFFICE OF THE GOVERNOR  
SALT LAKE CITY, UTAH  
84114-2220

SPENCER J. COX  
LIEUTENANT GOVERNOR

April 2, 2014

The Honorable Rebecca Lockhart  
Speaker of the House

and

The Honorable Wayne Niederhauser  
President of the Senate

Dear Speaker Lockhart and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you with my objections to House Bill 414, LEGISLATIVE SUBPOENA AMENDMENTS, and to explain my decision to veto the bill.

In vetoing HB 414, I do not question the Legislature's authority to seek information through subpoenas and to conduct investigations. The State is best served when policy makers have complete information in order to make informed decisions. Further, I recognize this bill was passed in response to the investigation of former Attorney General John Swallow, and was a result of the frustration the Legislature experienced in conducting that investigation. While I am sympathetic to that frustration, history has repeatedly shown us that government response to scandals can often be excessive and overreaching. Regardless of the motives for passing HB 414, I cannot sign a bill that demands information of anyone, at any time, on any subject, for any purpose, and denies our citizens their fundamental constitutional rights of defense and due process.

HB 414 ignores the checks and balances that are the basis for our system of government by exempting legislative subpoenas from judicial oversight. The bill violates the open courts provision of the Utah Constitution by denying citizens the ability to seek redress in the courts. In fact, the bill specifically states that "A person may not file with a court, and a court does not have jurisdiction to hear or decide, a disputative motion or any other motion or action challenging the scope, breadth, or validity of a legislative subpoena." The bill subjects, not only public officials, but also

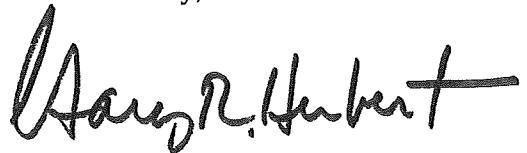
private citizens to unlimited and unrestrained subpoena power. And most egregiously, the bill criminalizes any attempt by an individual to seek relief from anyone other than the legislative body itself, punishable by up to one year in jail.

The problems with HB 414 might have been resolved with sufficient vetting and public debate, but instead, this bill was voted on late in the session, too quickly, and without public hearing or input. The final version of HB 414 did not have a committee hearing in either the House or Senate, and the only debate on the final version of the bill was related to a motion to concur. While the flaws in the bill were acknowledged and discussed in that final vote, the message was, *we know it is flawed but we can fix it later*. That sentiment may work with technical corrections to governmental programs, but should never be applied to a bill that denies citizens their civil rights.

I am confident that when concepts in this bill are looked at more carefully and are given more scrutiny by the public and members of the Legislature, the original purpose of this bill can be accomplished without jeopardizing the rights of our citizens.

For these reasons, I disapprove of and veto House Bill 414, LEGISLATIVE SUBPOENA AMENDMENTS, and return it to the House of Representatives.

Sincerely,

A handwritten signature in black ink, reading "Gary R. Herbert". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary R. Herbert  
Governor